

CHARTER  
of the  
CITY OF SANTA BARBARA

(Includes updates through the November 2, 2004, Election)

Adopted by the City Council  
of  
Santa Barbara, California  
on  
May 2, 1967

Reprinted February 2005

City Clerk's Office  
City of Santa Barbara  
P.O. Box 1990  
Santa Barbara, CA 93102-1990

**CHARTER OF THE  
CITY OF SANTA BARBARA**

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**CHARTER OF THE**  
**CITY OF SANTA BARBARA**

We, the people of the City of Santa Barbara, State of California, do ordain and establish this Charter as the organic law of said City under the Constitution of said State.

**Article I**

**NAME AND SEAL**

Section 100. Name.

The municipal corporation now existing and known as the City of Santa Barbara shall remain and continue to exist as a municipal corporation under its present name of "City of Santa Barbara".

Section 101. Seal.

The City shall have an official seal which may be changed from time to time by ordinance. The present official seal shall continue to be the official seal of the City until changed in the manner stated.

**Article II**

**BOUNDARIES**

Section 200. Boundaries.

The boundaries of the City shall be the boundaries as established at the time this Charter takes effect, and as such boundaries may be changed thereafter from time to time in the manner authorized by law.

**Article III**

**SUCCESSION**

Section 300. Rights and Liabilities.

The City of Santa Barbara shall continue to own, possess and control all rights and property of every kind and nature owned, possessed or controlled by it at the time this Charter takes effect and shall continue to be subject to all its debts, obligations, liabilities and contracts.

Section 301. Ordinances Continued in Effect.

All lawful ordinances, resolutions, rules and regulations, and portions thereof, in force at the time this Charter takes effect and not in conflict or inconsistent herewith, are hereby continued in force until the same shall have been duly repealed, amended, changed or superseded by proper authority.

Section 302. Rights of Officers and Employees Preserved.

Nothing in this Charter contained, unless otherwise provided herein, shall affect or impair the civil service, personnel, pension or retirement rights or privileges of officers or employees of the City, or of any office, department or agency thereof, existing at the time this Charter takes effect.

### Section 303. Continuance of Present Officers and Employees.

The present officers and employees of the City shall continue without interruption to perform the duties of their respective offices and employments upon the same terms and conditions and for the compensation provided by the existing ordinances, regulations, rules or laws, but subject to such removal, amendment, change or control as is provided or permitted in this Charter, and, as to offices which are changed, superseded or abolished by this Charter, until the election and qualification or appointment of their respective successors under this Charter, if any, or until the duties of an abolished office have been transferred and are being performed pursuant to this Charter, or the City Council shall by resolution determine the office vacant. Each elective officer whose office is continued in existence but made appointive under this Charter shall continue to hold such office, under this Charter, but his vested or accrued retirement or pension rights or privileges shall not be deemed to be changed, altered or affected in any way by the adoption of this Charter.

### Section 304. Continuance of Contracts.

All contracts entered into by the City or for its benefit prior to the effective date of this Charter and then in effect, shall continue in full force and effect according to their terms.

### Section 305. Pending Actions and Proceedings.

No action or proceeding, civil or criminal, pending at the time this Charter takes effect, brought by or against the City or any officer, office, department or agency thereof, shall be affected or abated by the adoption of this Charter or by anything herein contained but all such actions or proceedings may be continued notwithstanding that functions, powers and duties of any officer, office, department or agency a party thereto, may be assigned or transferred by or under this Charter to another officer, office, department or agency, but in that event the same may be prosecuted or defended by the head of the office, department or agency to which such functions, powers and duties have been assigned or transferred by or under this Charter.

### Section 306. Effective Date of Charter.

This Charter shall take effect upon its approval by the Legislature after it shall have been ratified by the qualified voters of the City in the manner set forth in the Constitution of the State.

## **Article IV**

### **POWERS OF CITY**

#### Section 400. Powers of City.

The City shall have the power to make and enforce all laws and regulations in respect to municipal affairs, subject only to such restrictions and limitations as may be provided in this Charter or in the Constitution of the State of California. It shall also have the power to exercise any and all rights, privileges and powers, including proprietary powers, heretofore or hereafter established, granted or prescribed by any law of the State, by this Charter, or by other lawful authority, or which a municipal corporation might or could exercise under the Constitution of the State of California, subject to such restrictions and limitations as may be contained in this Charter.

The enumeration in this Charter of any particular power shall not be held to be exclusive of, or any limitation upon, the generality of the foregoing provisions.

#### Section 401. Procedures.

The City shall have the power to and may act pursuant to any procedure established by any law of the State, unless a different procedure is required by this Charter.

## **Article V**

### **MAYOR AND CITY COUNCIL**

#### **Section 500. City Council. Terms.**

The elective officers of the City shall consist of a City Council of seven (7) members, including the Mayor, all to be elected from the City at large at the times and in the manner provided in this Charter and who shall serve for terms of four (4) years and until their respective successors qualify.

The Mayor and members of the City Council in office at the time this Charter amendment takes effect shall continue in office until their successors are elected and qualified. Three (3) members of the City Council shall be elected at the General Municipal Election to be held in April, 1969 (to succeed the members whose terms expire in 1969), and each fourth year thereafter. Three (3) members of the City Council shall be elected at the General Municipal Election to be held April, 1971 (to succeed the members whose terms expire in 1971), and each fourth year thereafter. The Mayor shall be elected as Mayor, separate and apart from the other members of the City Council, at the General Municipal Election held in April, 1969, and each fourth year thereafter.

The term of the Mayor and each member of the City Council shall commence on the day of the first Council meeting in the month of January following the receipt of certification of election results. Ties in voting among candidates for office shall be settled by the casting of lots. (Approved by election held November 2, 1993; effective November 29, 1993.)

#### **Section 500.1 City Council - Limitation on Terms.**

No person shall be eligible to serve as a member of the City Council for more than two (2) consecutive four (4) year terms. No person shall be eligible to serve as Mayor for more than two (2) consecutive four (4) year terms. No person shall be eligible to serve cumulatively as a member of the City Council and Mayor for more than four (4) consecutive four (4) year terms. Election to a term of office beginning prior to the effective date of this amendment shall not disqualify any incumbent from completing said term. (Approved by election held November 6, 1990; effective December 5, 1990.)

#### **Section 501. Eligibility.**

No person shall be eligible to hold office as Mayor or as a member of the City Council unless he is and shall have been a resident and qualified elector of the City for at least thirty (30) days next preceding the date of his election or appointment. The City Council shall judge the qualifications of its members as set forth by this Charter. (Approved by election held March 6, 1979.)

#### **Section 502. Compensation.**

Beginning July 1, 2005, the members of the City Council, except the Mayor, shall receive an annual salary in the sum equal to eighty percent (80%) of the annual Area Median Income and the Mayor shall receive an annual salary equal to one hundred percent (100%) of the Area Median Income. In addition, the Mayor and each member of the City Council shall receive reimbursement on order of the City Council for Council authorized traveling and other expenses when on official duty upon submission of an itemized expense account therefor, or may receive an advance for such purposes subject to such accounting. In addition, members shall receive such uniform, reasonable and adequate amount as may be established by ordinance, which amount shall be deemed to be reimbursement to them of other routine and ordinary expenses and costs imposed upon them by virtue of their serving as City Councilmen, including the Mayor.

The term "Area Median Income" shall refer to the annual Area Median Income for a one-person household within Santa Barbara County as determined and set by the United States Department of Housing and Urban Development or, if the Housing and Urban Development Area Median Income determination is not available for any reason, by a comparable index published by the state of California. The Mayor and City Council member salaries shall also be adjusted each year as of the first day of April based on changes in the Area Median Income. (Approved by elections held November 4, 1986, March 8, 1977, and November 2, 2004.)

#### **Section 503. Vacancies.**

A vacancy on the City Council, occurring as the result of the election of a member of the City Council to the office of Mayor, shall be filled by appointment by the City Council, within thirty (30) days of the election, of the unelected candidate who received the highest number of votes for election to the City Council at said election. Said person shall serve the remaining term of the City Councilmember who was elected to the office of Mayor.

A vacancy on the City Council, or in the Office of Mayor, from whatever cause arising other than expiration of term or the election of a member of the City Council to the Office of Mayor, shall be filled by appointment by the City Council within thirty (30) days of the occurrence of such vacancy unless it occurs less than one hundred (100) days before a general municipal election, in which case the office shall remain vacant until the election. In the event there is no unelected City Council candidate at the election at which a member of the City Council is elected Mayor, the City Council vacancy shall be filled as provided in this paragraph. The person appointed shall serve until the next general municipal election at which time any unexpired term shall be filled by election. In the event that a vacancy occurs after the final date for publishing the notice of election for a general municipal election and the term of office does not expire until the next succeeding general municipal election, the vacancy shall be filled by appointment by the City Council, within thirty (30) days after the election, of the unelected candidate who received the highest number of votes for election to the City Council at said election.

If the Mayor or other member of the City Council absents himself from all regular meetings of the City Council for a period of sixty (60) days consecutively from and after the last regular Council meeting attended by him, unless by permission of the City Council expressed in its official minutes, or if convicted of a crime involving moral turpitude, or ceases to be an elector of the City, his office shall become vacant. The City Council shall declare the existence of any such vacancy. (Approved by election held November 2, 1982.)

#### Section 504. The Mayor.

The Mayor shall be the presiding officer at all meetings of the City Council and shall be included as a member of the City Council for all purposes under this Charter unless otherwise expressly provided. He shall be counted in determining a quorum and shall be entitled to vote on all matters, but shall possess no veto power. The Mayor may make and second motions and shall have a voice and vote in all its proceedings. He shall be the official head of the City for all ceremonial purposes. He shall have the primary but not the exclusive responsibility for interpreting the policies, programs and needs of the City government to the people, and as occasion requires, he may inform the people of any change in policy or program. He shall perform such other duties consistent with his office as may be prescribed by this Charter or as may be imposed by the City Council.

The City Council shall designate one (1) of its members as Mayor Pro Tempore, who shall serve in such capacity at the pleasure of the City Council. The Mayor Pro Tempore shall perform the duties of the Mayor during the absence or disability of the Mayor.

#### Section 505. Powers Vested in City Council.

All powers of the City shall be vested in the City Council except as otherwise provided in this Charter.

#### Section 506. Regular Meetings.

The City Council shall hold regular meetings at least once each week at such times as it shall fix by ordinance or resolution and may adjourn or re-adjourn any regular meeting to a date and hour certain which shall be specified in the order of adjournment and when so adjourned each adjourned meeting shall be a regular meeting for all purposes. If the hour to which a meeting is adjourned is not stated in the order of adjournment, such meeting shall be held at the hour for holding regular meetings. If at any time any regular meeting falls on a holiday such regular meeting shall be held on the next business day.

#### Section 507. Special Meetings.

A special meeting may be called at any time by the Mayor, or by a majority of the members of the City Council, by written notice to each member of the City Council and to each local newspaper of general circulation, radio or television station requesting notice in writing. Such notice must be delivered personally or by mail and must be received at least twenty-four (24) hours before the time of such meeting as specified in the notice. The call and notice shall specify the time and place of the special meeting and the business to be transacted. No other business shall be considered at such meeting. Such written notice may be dispensed with as to any person entitled thereto who, at or prior to the time the meeting convenes, files with the City Clerk a written waiver of notice. Such waiver may be given by telegram. Such written notice may also be dispensed with as to any person who is actually present at the meeting at the time it convenes. (Approved by election held November 2, 1982.)

#### Section 508. Place of Meetings.

All meetings shall be held in the Council Chambers of the City Hall, or in such place within the City to which any such meeting may be adjourned, and shall be open to the public. If, by reason of fire, flood or other emergency, it shall be unsafe to meet in the place designated, the meetings may be held for the duration of the emergency at such place within the City as is designated by the Mayor, or, if he should fail to act, by a majority of the members of the City Council.

#### Section 509. Quorum. Proceedings.

A majority of the members of the City Council shall constitute a quorum to do business but a lesser number may adjourn from time to time. In the absence of all the members of the City Council from any regular meeting or adjourned regular meeting, the City Clerk may declare the same adjourned to a stated day and hour. The City Clerk shall cause written notice of a meeting adjourned by less than a quorum or by the City Clerk to be delivered personally or by mail to each Councilman at least twenty-four (24) hours before the time to which the meeting is adjourned, or such notice may be dispensed with in the same manner specified in this Charter for dispensing with notice of special meetings of the City Council. The City Council shall judge all election returns. It may establish rules for the conduct of its proceedings and evict or prosecute any member or other person for disorderly conduct at any of its meetings.

Each member of the City Council including the Mayor shall have the power to administer oaths and affirmations in any investigation or proceeding pending before the City Council. The City Council shall have the power and authority to compel the attendance of witnesses, to examine them under oath and to compel the production of evidence before it. Subpoenas shall be issued in the name of the City and be attested by the City Clerk. They shall be served and complied with in the same manner as subpoenas in civil actions. Disobedience of such subpoenas, or the refusal to testify (under other than constitutional grounds), shall constitute a misdemeanor, and shall be punishable in the same manner as violations of this Charter are punishable.

Upon the adoption of any order for the payment of money, or any ordinance, resolution, or upon the demand of any member, the City Clerk shall call the role and shall cause the ayes and nays taken on such questions to be entered in the minutes of the meeting.

#### Section 510. Citizen Participation.

All regular and special meetings of the City Council shall be open and public and all persons shall be permitted to attend such meetings, except that the provisions of this section shall not apply to executive sessions to consider the appointment, employment, discipline or dismissal of a public officer or employee or to hear complaints or charges brought against any such officer or employee. No resident or property owner shall be denied the right to be heard by the City Council, but such right shall be subject to such reasonable rules and regulations as may be authorized or adopted by ordinance. A discussion with the City Attorney relating to pending, proposed or threatened litigation shall not be considered to be a regular or special meeting within the meaning of this section.

#### Section 511. Adoption of Ordinances and Resolutions.

With the sole exception of emergency ordinances which take effect upon adoption, referred to in this Article, no ordinance shall be adopted by the City Council on the day of its introduction, nor within five (5) days thereafter nor at any time other than at a regular or adjourned regular meeting. At the time of its introduction an ordinance shall become a part of the proceedings of such meeting in the custody of the City Clerk. At the time of introduction or adoption of an ordinance or resolution it shall be read in full, unless after the reading of the title thereof, the further reading thereof is waived by unanimous consent of the Councilmen present, except that emergency ordinances shall be read in full. In the event that any ordinance is altered after its introduction, the same shall not finally be adopted except at a regular or adjourned regular meeting held not less than five days after the date upon which such ordinance was so altered. The correction of typographical or clerical errors shall not constitute the making of an alteration within the meaning of the foregoing sentence.

No order for the payment of money shall be adopted or made at any other than a regular or adjourned regular meeting.

Unless a higher vote is required by other provisions of this Charter, the affirmative votes of at least four (4) members of the City Council shall be required for the enactment of any ordinance or resolution, or for the making or approving of any order for payment of money. All ordinances and resolutions shall be signed by the Mayor and attested by the City Clerk.

Any ordinance declared by the City Council to be necessary as an emergency measure for the immediate preservation of the public peace, health or safety, and containing a statement of the reasons for its urgency, may be introduced and adopted at one and the same meeting if passed by at least five (5) affirmative votes.



#### Section 512. Ordinances. Enactment. Publication.

In addition to such other acts of the City Council as are required by this Charter to be taken by ordinance, every act of the City Council establishing a fine or other penalty, or granting a franchise, shall be by ordinance.

The enacting clause of all ordinances shall be substantially as follows: "The City Council of the City of Santa Barbara does ordain as follows".

The City Clerk shall cause each ordinance to be published at least once in the official newspaper within fifteen (15) days after its adoption; provided, that the Council, in lieu of such publication, in its discretion may order any ordinance published by title only in the official newspaper within fifteen (15) days after its adoption, and providing that the full text be available to the public at the City Clerk's Office, and such publication by title only shall so state. (Approved by election held April 15, 1969.)

#### Section 513. Codification of Ordinances, etc.

Any or all ordinances of the City which have been enacted and published in the manner required at the time of their adoption, and which have not been repealed, shall be compiled, consolidated, revised, indexed and arranged as a comprehensive Ordinance Code, and such Code may be adopted by reference, with the same effect as an ordinance, by the passage of an ordinance for such purpose. Such Code need not be published in the manner required for other ordinances, but not less than three (3) copies thereof shall be filed for use and examination by the public in the Office of the City Clerk prior to the adoption thereof. Ordinances codified shall be repealed as of the effective date of the Code. Amendments to the Code shall be enacted by ordinance. Once adopted, a sufficient number of loose-leaf copies of said Code (which shall be entitled "Santa Barbara Municipal Code") for use by the City and interested members of the public shall be made available and such Code shall be kept current by the City Clerk.

Detailed regulations pertaining to any subject such as the construction of buildings, plumbing and wiring, or fire prevention, when arranged as a comprehensive code, may likewise be adopted by reference in the manner provided by this section. Maps, charts and diagrams also may be adopted by reference in the same manner.

#### Section 514. Ordinances. When Effective.

Every ordinance shall become effective thirty (30) days from and after the date of its adoption, except the following, which shall take effect upon adoption:

- (a) An ordinance calling or otherwise relating to an election;
- (b) An improvement proceeding ordinance adopted under some special law or procedural ordinance relating thereto;
- (c) An ordinance declaring the amount of money necessary to be raised by taxation, or fixing the rate of property taxation, or levying the annual tax upon property;
- (d) An emergency ordinance adopted in the manner provided in this Article.

#### Section 515. Ordinance. Violation. Penalty.

A violation of any ordinance of the City shall constitute a misdemeanor or infraction and may be prosecuted in the name of the People of the State of California and/or may be redressed by civil action. The maximum fine or penalty for any violation of a City ordinance shall be the sum of one thousand dollars (\$1,000.00), or a term of imprisonment for a period not exceeding six (6) months, or both. (Approved by election held November 2, 1982.)

#### Section 516. Ordinances Amendment.

The amendment of any section or subsection of an ordinance or Municipal Code may be accomplished solely by the re-enactment of such section or subsection at length, as amended.

#### Section 517. Publishing of Legal Notices.

The City Council shall contract for the publication of all legal notices, ordinances and other matter required to be published in a newspaper of general circulation in the City. Each such contract shall cover a period of not less than one (1) nor more than two (2) years. In the event there is more than one (1) newspaper of general circulation published within the City, the contract shall be made only after the publication of a notice inviting bids therefor. In the event there is only one (1) newspaper of general circulation published in the City, then the City Council shall have the power to contract with such newspaper for the printing and publishing of such legal notices or matter without being required to advertise for bids therefor. The newspaper with which any such contract is made shall be the official newspaper for the publication of such notices or other matter for the period of such contract. Any such newspaper of general circulation shall mean a newspaper adjudicated to be a newspaper of general circulation in the City.

In no case shall the contract prices for such publication exceed the customary rates charged by such newspaper for the publication of legal notices of a private character.

In the event there is no newspaper of general circulation published in the City, or in the event no such newspaper will accept such notices or other matter at the rates permitted herein, then all legal notices or other matter may be published by posting copies thereof in at least three (3) public places in the City to be designated by ordinance.

No defect or irregularity in proceedings taken under this section, or failure to designate an official newspaper, shall invalidate any publication where the same is otherwise in conformity with the Charter or law or ordinance.

#### Section 518. Contracts. Execution.

The City shall not be bound by any contract, except as hereinafter provided, unless the same shall be made in writing, approved by the City Council and signed on behalf of the City by the Mayor and City Clerk or by such other officer or officers as shall be designated by the City Council. Any of said officers shall sign a contract on behalf of the City when directed to do so by the City Council.

By ordinance or resolution not inconsistent with this Charter the City Council may authorize the City Administrator or other officer to bind the City, with or without a written contract, for the acquisition of equipment, materials, supplies, labor, services or other items included within the budget approved by the City Council, and may impose a monetary limit upon such authority.

The City Council may by ordinance or resolution provide a method for the sale or exchange of personal property not needed in the City service or not fit for the purpose for which intended, and for the conveyance of title thereto.

Contracts for the sale of the products, commodities or services of any public utility owned, controlled or operated by the City may be made by the manager of such utility or by the head of the department or City Administrator upon forms approved by the City Administrator and at rates fixed by the City Council.

The provisions of this section shall not apply to the employment of any person by the City at a regular salary.

#### Section 519. Contracts on Public Works.

Except as herein provided, every project for the construction or improvement (excluding maintenance and repair) of public buildings, works, streets, drains, sewers, utilities, parks, playgrounds, Harbor facilities and Airport facilities, and each separate purchase of materials or supplies for the same shall be let to the lowest responsible bidder after notice by publication in a newspaper of general circulation by two (2) or more insertions, the first of which shall be at least ten (10) days before opening bids. The City Council may reject any and all bids presented and may readvertise at its discretion.

In the interest of efficiency and fiscal economy, the City may dispense with public bidding if it makes either or both of the following findings:

(1) The project can be performed more efficiently and more economically by City employees or by City employees working in conjunction with private contractors or subcontractors;

(2) The materials, supplies or services can be purchased at a lower price in the open market.

In the event that the City Council makes the appropriate finding or findings, it may cause the project to be performed pursuant to subsection (1) above and/or the materials, supplies or services purchased pursuant to subsection (2) above.

Such contracts may be let and such purchases made without the aforementioned findings being made if such work or the purchase of such materials, supplies or services shall be deemed by the City Council to be of urgent necessity for the preservation of life, health or property, and shall be authorized by the affirmative votes of at least two-thirds (2/3) of the total members of the City Council.

Projects for the extension, replacement or expansion of the transmission or distribution system of the Water Department operated by the City may be excepted from the requirements of this section by the affirmative vote of a majority of the total members of the City Council. (Approved by election held March 8, 1977.)

#### Section 520. Disposition of Real Property or a Public Utility.

No land acquired by the City for or dedicated to public park or recreation purposes and no beach property or public utility now or hereafter owned or operated by the City shall be sold, leased or otherwise transferred, encumbered or disposed of unless authorized by the affirmative votes of at least a majority of the total membership of the City Council and by the affirmative votes of at least a majority of the electors voting on such proposition at a general or special election at which such proposition is submitted. Concessions, permits or leases compatible with and accessory to the purposes to which the property is devoted by the City and which are permitted by contract from and regulated by the City shall not be subject to this paragraph. (Approved by election held November 2, 1982.)

No other land owned by the City, unless the value thereof is less than five thousand dollars (\$5,000.00) shall be sold, transferred or disposed of or encumbered, unless such sale, transfer, disposition or encumbrance be made or approved by ordinance which shall be subject to referendum. (Approved by election held June 6, 1978.)

#### Section 521. Contracts. Restrictions.

No contract or lease or extension thereof by which the City is bound for a longer period than five (5) years shall be valid unless said contract, lease or extension be made or approved by ordinance which shall be subject to referendum; nor may the City lease property owned, held or controlled by it for any period exceeding fifty (50) years. This section shall not apply to any franchise granted pursuant to the provisions of this Charter or to any contract for the furnishing or acquisition of the products, commodity or services of any public utility.

#### Section 522. Revenue of Water Department.

The revenue of the Water Department operated by the City for each fiscal year shall be kept separate and apart from all other moneys of the City and shall be used for the purposes and in the order as follows:

(a) For the acquisition of water and payment of the operating and maintenance expenses of such utility, including any necessary contribution to retirement of its employees.

(b) For the payment of interest on the bonded debt incurred for the construction, improvement or acquisition of such utility.

(c) For the payment, or provision for the payment, of the principal of said debt as it may become due.

(d) For capital expenditures of such utility.

(e) For the annual payment into the Contingency Reserve Account of an amount up to five percent (5%) of the gross revenue of such utility during the previous fiscal year. This Contingency Reserve Account shall be available for use by said utility only for capital replacements or emergency repairs and only after appropriation by the City Council.

### Article VI

#### CITY ADMINISTRATOR

#### Section 600. City Administrator.

There shall be a City Administrator who shall be the Chief Administrative Officer of the City. He shall be appointed by the affirmative vote of at least a majority of the members of the City Council and shall serve at the pleasure of the City Council, provided, however, that he shall not be removed from office except as provided in this Charter. He shall be chosen on the basis of his executive and administrative qualifications, and adequate examination, with special reference to his actual experience in, and his knowledge of, accepted practice in respect to the duties of his office as herein set forth, and shall have been the manager or Chief Administrative Officer of a City or County for at least five (5) years or shall have been the assistant or deputy of such manager or Chief Administrative Officer for at least five (5) years or shall have had at least five (5) years experience in the management of a business or other organization, or shall have had commensurate and equal public or private administrative experience. He shall be at least thirty (30) years of age. (Approved by election held June 4, 1974.)

#### Section 601. Residence.

The City Administrator need not be a resident of the City at the time of his appointment, but he shall establish his residence within the City within thirty (30) days after the effective date of his appointment, unless such period is extended by the City Council, and thereafter maintain his residence within the City during his tenure of office.

#### Section 602. Eligibility.

No person shall be eligible to receive appointment as City Administrator or Acting City Administrator while serving as a member of the City Council nor within one (1) year after he has ceased to be a member of the City Council.

### Section 603. Compensation and Bond.

The City Administrator shall be paid a salary commensurate with his responsibilities as Chief Administrative Officer of the City, which salary shall be established by ordinance or resolution. The City Administrator shall furnish a corporate surety bond conditioned upon the faithful performance of his duties in such form and in such amount as may be determined by the City Council; the premium on such bond shall be paid by the City.

### Section 604. Powers and Duties.

The City Administrator shall be the Chief Administrative Officer and head of the administrative branch of the City government. Except as otherwise provided in this Charter, he shall be responsible to the City Council for the proper administration of all affairs of the City. Without limiting the foregoing general grant of powers, responsibilities and duties, subject to the provisions of this Charter, including the civil service provisions thereof, the City Administrator shall have power and be required to:

(a) Appoint, and he may promote, demote, suspend or remove all department heads, officers and employees of the City except elective officers and those department heads, officers and employees the power of whose appointment is vested by this Charter in the City Council. He may authorize the head of any department or office to appoint or remove subordinates in such department or office. No department head shall be appointed or removed until the City Administrator shall first have reviewed such appointment or removal with the City Council and received its approval for such appointment or removal.

(b) Prepare the budget annually, submit it to the City Council, and be responsible for its administration after its adoption.

(c) Prepare and submit to the City Council as of the end of each fiscal year, a complete report on the finances of the City for the preceding fiscal year, and annually or more frequently, a current report of the principal administrative activities of the City.

(d) Keep the City Council advised of the financial condition and future needs of the City and make such recommendations as may to him seem desirable.

The City Administrator each year shall prepare and submit to the City Council a Five-Year Capital Program at least three (3) months prior to the final date for submission of the budget. The Capital Program shall include:

- (1) A clear general summary of its contents;
- (2) A list of all capital improvements which are proposed to be undertaken during the five (5) fiscal years next ensuing, with appropriate supporting information as to the necessity for such improvements;
- (3) Cost estimates, method of financing and recommended time schedules for each such improvement; and
- (4) The estimated annual cost of operating and maintaining the facilities to be constructed or acquired.

The above information may be revised and extended each year with regard to capital improvements still pending or in process of construction or acquisition. Said Capital Program shall be a public record open to public inspection.

(e) Establish and maintain through the Director of Finance, a centralized purchasing system for all City offices, departments and agencies.

(f) Prepare rules and regulations governing the contracting for, purchasing, inspection, storing, inventory, distribution and disposal of all supplies, materials and equipment required by any office, department or agency of the City government and recommend them to the City Council for adoption by ordinance, and administer and enforce the same after adoption.

(g) Supervise the enforcement of the laws of the State pertaining to the City, the provisions of this Charter and the ordinances, franchises and rights of the City.

(h) Subject to policy established by the City Council, exercise control of all administrative offices and departments of the City and of all appointive officers and employees except those directly appointed by the City Council and prescribe such general rules and regulations as he may deem necessary or proper for the general conduct of the administrative offices and departments of the City under his jurisdiction.

(i) Perform such other duties consistent with this Charter as may be required of him by the City Council.

### Section 605. Meetings.

The City Administrator shall be accorded a seat at all meetings of the City Council and of all boards and commissions and shall be entitled to participate in their deliberations, but shall not have a vote. He shall receive notice of all special meetings of the City Council, and of all boards and commissions. He shall attend all meetings of the City Council, unless excused, except when his removal is under consideration.

#### Section 606. Removal.

The City Administrator shall not be removed from office during or within a period of ninety (90) days next succeeding any municipal election at which a member of the City Council is elected. At any other time the City Administrator may be removed only at a regular meeting of the City Council and upon the affirmative votes of a majority of the members of the City Council. At least thirty (30) days prior to the effective date of his removal, the City Administrator shall be furnished with a written notice stating the Council's intention to remove him and, if requested by the City Administrator, the reasons therefor. Within seven (7) days after receipt of such notice, the City Administrator may by written notification to the City Clerk request a public hearing before the City Council, in which event the Council shall fix a time for a public hearing which shall be held at its regular meeting place before the expiration of the thirty (30) day period above referred to. The City Administrator shall appear and be heard at such hearing. After furnishing the City Administrator with written notice of his intended removal, the City Council may suspend him from duty, but his compensation shall continue until his removal as herein provided. In removing the City Administrator, the City Council shall use its uncontrolled discretion, and its action shall be final and shall not depend upon any particular showing or degree of proof at the hearing, the purpose of which is to allow the City Council and the City Administrator to present to each other and to the public all pertinent facts prior to the final action of removal.

#### Section 607. Non-interference with Administrative Service.

Except as otherwise provided in this Charter, neither the Council nor any of its members shall order, directly or indirectly, the appointment by the City Administrator, or by any of the department heads in the administrative service of the City, of any person to any office or employment, or his removal therefrom. Except for the purpose of inquiry, the City Council and its members shall deal with the administrative service under the jurisdiction of the City Administrator solely through the City Administrator, and neither the City Council nor any member thereof shall give orders to any subordinate of the City Administrator, either publicly or privately. This section shall not apply to any officer appointed by the City Council or to the members of his department.

#### Section 608. Acting City Administrator.

The City Administrator shall appoint, subject to the approval of the City Council, his assistant or deputy or one (1) of the other officers or department heads of the City to serve as Acting City Administrator during any temporary absence or disability of the City Administrator. If he fails to make such appointment, the City Council shall appoint either an assistant or deputy City Administrator or officer or department head of the City to serve as such Acting City Administrator during any such absence or disability.

### **Article VII**

#### **OFFICERS AND EMPLOYEES**

#### Section 700. Enumeration.

In addition to the City Council and City Administrator, the officers and employees of the City shall consist of a City Attorney, a City Clerk, a City Treasurer, a Director of Finance and such other officers, assistants, deputies and employees as are required by this Charter or as the City Council may provide by ordinance or resolution.

#### Section 701. Appointment and Removal.

The City Attorney, City Clerk and City Treasurer shall be appointed by and may be removed by the affirmative votes of at least a majority of the total membership of the City Council. All other officers, department heads and employees of the City shall be appointed and may be removed as elsewhere in this Charter provided.

## Section 702. Administrative Departments.

The City Council may provide by ordinance or resolution not inconsistent with this Charter for the organization, conduct and operation of the several offices and departments of the City as established by this Charter, for the creation of additional departments, divisions, offices and agencies and for their consolidation, alteration or abolition. It may further provide by ordinance or resolution for the assignment and reassignment of functions, duties, offices and agencies to offices and departments, and for the number, titles, qualifications, powers, duties and compensation of all officers and employees, consistent with this Charter. Each department so created shall be headed by an officer as department head. Notwithstanding the provisions of the section, the Fire and Police Departments shall continue and remain as separate departments of the City.

When the positions are not incompatible, the City Council may combine in one (1) person the powers and duties of two (2) or more officers.

The titles of the administrative departments and employees used in this Charter may be changed by the City Council by ordinance or resolution for administrative convenience and efficiency. (Approved by election held November 8, 1983.)

## Section 703. City Attorney. Powers and Duties.

To become and remain eligible for City Attorney the person appointed shall be an attorney at law duly licensed as such under the laws of the State of California, and shall have been engaged in the practice of law in this State for at least three (3) years prior to his appointment. The City Attorney shall have the power and may be required to:

- (a) Represent and advise the City Council and all City officers in all matters of law pertaining to their offices.
- (b) Prosecute on behalf of the people any or all criminal cases arising from violation of the provisions of this Charter or of City ordinances and such State misdemeanors as the City has the power to prosecute, unless otherwise provided by the City Council.
- (c) Represent and appear for the City in any or all actions or proceedings in which the City is concerned or is a party, and represent and appear for any City officer or employee, or former City officer or employee, in any or all civil actions or proceedings in which such officer or employee is concerned or is a party for any act arising out of his employment or by reason of his official capacity.
- (d) Attend all meetings of the City Council, unless excused, and give his advice or opinion orally or in writing whenever requested to do so by the City Council or by any of the commissions, boards or officers of the City.
- (e) Approve the form of all contracts made by and all bonds given to the City endorsing his approval thereon in writing.
- (f) Prepare proposed ordinances and City Council resolutions and amendments thereto.
- (g) Devote such time to the duties of his office as may be specified by the City Council.
- (h) Perform such legal functions and duties incident to the execution of the foregoing powers as may be necessary.
- (i) Surrender to his successor all books, papers, files and documents pertaining to the City's affairs.

The City Council shall have control of all legal business and proceedings and may employ other attorneys to take charge of or may contract for any prosecutions, litigation or other legal matters or business.

The City Attorney may, subject to the approval of the City Council, appoint such deputy or deputies to assist him or act for him, at such salaries or compensation as the Council may by ordinance or resolution prescribe.

## Section 704. City Clerk. Powers and Duties.

The City Clerk shall have the power and shall be required to:

- (a) Attend all meeting of the City Council, unless excused, and be responsible for the recording and maintaining of a full and true record of all of the proceedings of the City Council in books that shall bear appropriate title and be devoted to such purpose.
- (b) Maintain separate books in which shall be recorded respectively all ordinances and resolutions, with the certificate of the Clerk annexed to each thereof stating the same to be the original or a correct copy, and as to an ordinance requiring publication, stating that the same has been published or posted in accordance with this Charter.
- (c) Maintain separate records of all written contracts and official bonds.
- (d) Keep all books and records in his possession properly indexed and open to public inspection when not in actual use.
- (e) Be the custodian of the Seal of the City.
- (f) Administer oaths or affirmations, take affidavits and depositions pertaining to the affairs and business of the City and certify copies of official records.

(g) Be ex-officio Assessor, during any period of time when the County is not responsible for assessing property for the City under the provisions of the general laws of the State relative to the assessment of property and the collection of City taxes by County officers, or unless the City Council by ordinance provides otherwise.

(h) Have charge of all City elections.

(i) Perform all other duties prescribed by this Charter, and such other duties consistent with this Charter as may be required by ordinance or resolution of the City Council.

The City Clerk may, subject to the approval of the City Council, appoint such deputy or deputies to assist him or act for him, at such salaries or compensation as the Council may by ordinance or resolution prescribe.

#### Section 705. City Treasurer. Powers and Duties.

The City Treasurer shall have the power and shall be required to:

(a) Receive on behalf of the City all taxes, assessments, license fees and other revenues of the City, or for the collection of which the City is responsible, and receive all taxes or other money receivable by the City from the County, State or Federal government, or from any Court, or from any office, department or agency of the City or any other source. Act as ex-officio Tax Collector during any period of time that the County is not collecting City ad valorem property taxes under the provisions of the general laws of the State. (b) Have and keep custody of all public funds belonging to or under control of the City or any office, department or agency of the City government and deposit or cause to be deposited all funds coming into his hands in such depository as may be designated by resolution of the City Council, or, if no such resolution be adopted, then in such depository designated in writing by the City Administrator, and in compliance with all of the provisions of the State Constitution and laws of the State governing the handling, depositing and securing of public funds.

(c) Pay out moneys only on proper orders or warrants in the manner provided for in this Charter.

(d) Prepare and submit to the Director of Finance monthly written reports of all receipts, disbursements and fund balances, and shall file copies of such reports with the City Administrator and City Council.

(e) Perform all other duties prescribed by this Charter and such other duties consistent with this Charter as may be required by ordinance or resolution of the City Council.

The City Treasurer may, subject to the approval of the City Council, appoint such deputy or deputies to assist him or act for him, at such salaries or compensation as the Council may by ordinance or resolution prescribe.

#### Section 706. Director of Finance. Powers and Duties.

To be eligible for appointment as Director of Finance, the person appointed shall have had at least six (6) years of responsible financial experience including at least four (4) years in a public agency and shall have such other qualifications as may be required by the City Council. The Director of Finance shall have the power and shall be required to:

(a) Have charge of the administration of the financial affairs of the City under the direction of the City Administrator, and be head of the Finance Department of the City.

(b) Assist the City Administrator in the preparation and execution of the budget.

(c) Establish and maintain a system of financial procedures, accounts and controls for the City government and each of its officers, departments and agencies.

(d) Supervise and be responsible for the disbursement or investment of all moneys and have control of all expenditures to insure that budget appropriations are not exceeded; audit all purchase orders before issuance; audit and approve before payment all bills, invoices, payrolls, demands or charges against the City government; with the advice of the City Attorney, when necessary, determine the regularity, legality and correctness of such claims, demands or charges; and draw warrants upon the City Treasurer for all claims and demands audited and approved as in this Charter provided specifying the purpose for which drawn and the fund from which payment is to be made.

(e) Advise and assist the City Treasurer with respect to the receipt and collection of all taxes, assessments, license fees and other revenues of the City, or for the collection of which the City is responsible, and all the money receivable by the City from the County, State or Federal government, or from any court, office, department or agency of the City or any other source.

(f) Submit to the City Council through the City Administrator a monthly statement of all revenues and expenditures in sufficient detail to show the exact financial condition of the City; and, as of the end of each fiscal year, submit a complete financial statement and report.

(g) Supervise the keeping of current inventories of all property of the City by all City departments, offices and agencies.

(h) Maintain the centralized purchasing system as prescribed by this Charter, and perform such other duties consistent with this Charter as may be required of him.

Section 707. Administering Oaths.

Each department head and his deputies shall have the power to administer oaths and affirmations in connection with any official business pertaining to his department.

Section 708. Illegal Contract, Financial Interest.

The provisions of Article 4 of Chapter 1 of Division 4 of the Government Code (commencing with Section 1090) shall apply to all members of the City Council and all other officers, employees, and members of boards, commissions, and committees of the City. (Approved by election held November 5, 1985.)

Section 709. Acceptance of Other Office.

Any elective officer of the City who shall accept or retain any other elective public office, except as provided in this Charter, shall be deemed thereby to have vacated his office under the City government.

Section 710. Nepotism.

The City Council shall not appoint to a paid position under the City government any person who is a relative by blood or marriage within the third degree of any one (1) or more of the members of such City Council, nor shall the City Administrator or any department head or other officer having appointive power appoint any relative of his or of any Councilman within such degree to any such position.

Section 711. Official Bonds.

The City Council shall fix by ordinance or resolution the amounts and terms of the official bonds of all officials or employees who are required by this Charter or by ordinance to give such bonds. All bonds shall be executed by responsible corporate surety, shall be approved as to form by the City Attorney, and shall be filed with the City Clerk. Premiums on official bonds shall be paid by the City. A blanket bond may be used if it provides the same protection as the required separate bonds would provide.

In all cases wherein an employee of the City is required to furnish a faithful performance bond, there shall be no personal liability upon, or any right to recover against, his superior officer or other officer or employee, or the bond of the latter, unless such superior officer, or other officer or employee is a party to the act or omission, or has conspired in the wrongful act directly or indirectly causing the loss.

## **Article VIII**

### **APPOINTIVE BOARDS AND COMMISSIONS**

Section 800. In General.

There shall be the following named advisory boards and commissions which shall have the powers and duties herein stated. In addition, the City Council may create by ordinance such additional advisory boards or commissions as in its judgment are required, and may specify the number of members thereof, their terms and manner of appointment, and may grant to them such powers and duties as are consistent with the provisions of this Charter.

Section 801. Appropriations.

The City Council shall include in its annual budget such appropriations of funds as in its opinion shall be sufficient for the efficient and proper functioning of such boards and commissions. It also may by ordinance fix and establish the compensation, if any, to be paid to members of any such boards or commissions.



#### Section 802. Appointments. Terms.

The members of each of the board or commissions hereinafter named in this Article shall be appointed by the City Council from the qualified electors of the City, shall remain qualified electors during their term of office, and shall not hold any full time paid office or employment in the City government. They shall be subject to removal by motion of the City Council adopted by the affirmative votes of a majority of the total membership thereof. The members thereof shall serve for terms of four (4) years and until their respective successors are appointed and qualified. The terms shall be staggered so that the number of terms on any such board or commission expiring in any year shall not differ by more than one (1) from the number of terms expiring any other year. Such terms shall expire on December thirty-first of the appropriate year. A vacancy occurring before the expiration of a term shall be filled by appointment for the remainder of the unexpired term. (Approved by election held November 2, 1982.)

#### Section 803. Existing Boards.

The members of the boards and commissions holding office when this Charter takes effect shall continue to hold office thereafter until their respective terms of office shall expire and until their successors shall be appointed and qualified. This section shall apply only to boards or commissions which are continued in existence under this Charter. If the membership of any board or commission is reduced or increased by this Charter, the members to be added or eliminated shall be determined by the City Council. The terms of the members of any existing board or commission shall be adjusted, if necessary, to comply with the provisions of this Charter.

#### Section 804. Meetings. Chairman.

As soon as practicable, following the first day of July of every year, each of such boards and commissions shall organize by electing one (1) of its members to serve as presiding officer at the pleasure of the board or commission. All meetings of said boards and commissions shall be open to the public and all persons shall be permitted to attend such meetings, except that the provisions of this sentence shall not apply to executive sessions to consider the appointment, employment, discipline or dismissal of a public officer or employee or to hear complaints or charges against any such officer or employee.

The City Administrator shall designate a recording secretary for each of such boards and commissions who need not be a member of such board or commission, and who shall keep a record of its proceedings and transactions. Each board or commission may prescribe its own rules and regulations, which shall be subject to the approval of the City Council. Copies of such rules shall be kept on file in the Office of the City Clerk where they shall be available for public inspection.

#### Section 805. Oaths. Affirmations.

Each member of any such board or commission, and the secretary thereof, shall have the power to administer oaths and affirmations in any investigation or proceeding pending before such board or commission.

#### Section 806. Planning Commission. Powers and Duties.

There shall be a Planning Commission consisting of seven (7) members. The City Attorney, or one (1) of his assistants or deputies, shall attend all meeting of the Planning Commission unless excused therefrom. The Planning Commission shall have the power and duty to:

(a) Recommend to the City Council, after a public hearing thereon, the adoption, amendment or repeal of a General Plan, or any part thereof, and any specific or precise plans it may deem advisable for guidance in the physical development of the City.

(b) Exercise such functions with respect to land subdivisions as shall be provided by ordinance not inconsistent with the provisions of this Charter.

(c) Exercise such functions with respect to zoning, buildings, land use, redevelopment, conservation, proposed public works and related matters as may be prescribed by ordinance not inconsistent with the provisions of this Charter.

(d) Perform such other functions not inconsistent with this Charter as may be delegated to it by the City Council. (Approved by election held November 2, 1982.)

#### Section 807. Library Board. Powers and Duties.

There shall be a Library Board consisting of five (5) members which shall be a continuation of the previously existing Board of Library Trustees, and which shall have the power and duty to:

- (a) Make recommendations to the City Council as to policy concerning the operation and conduct of City Libraries and all Library facilities for which the City is responsible.
- (b) Recommend to the City Council rules and regulations and by-laws for the administration and protection of such Libraries and Library facilities.
- (c) Recommend to the City Council the duties and qualifications of the Librarian.
- (d) Make recommendations on policy concerning the acquisition, disposition, availability and use of books, journals, reports, maps, publications and other personal property.
- (e) Make recommendations concerning the purchase or lease of real property and the rental or provision for adequate facilities, buildings or rooms for Library purposes.
- (f) Consider with the Librarian the annual budget for Library purposes during the process of its preparation and make recommendations with respect thereto to the City Council and the City Administrator.
- (g) Within sixty (60) days after the close of each fiscal year, report to the City Council on the work, accomplishments and condition of the Libraries during the preceding fiscal year and on such other matters deemed expedient by the Library Board.
- (h) Exercise such other functions not inconsistent with this Charter as may be prescribed by ordinance.

#### Section 808. Board of Civil Service Commissioners. Powers and Duties.

There shall be a Board of Civil Service Commissioners consisting of five (5) members, none of the members of which while a member of said Board or for a period of one (1) year after he has ceased for any reason to be a member, shall occupy or be eligible for appointment to any salaried office of employment in the service of the City. The Board of Civil Service Commissioners shall have the power and be required to:

- (a) Act in an advisory capacity to the City Council and City Administrator on personnel administration.
- (b) After a public hearing thereon, recommend to the City Council, the adoption, amendment or repeal of personnel rules and regulations.
- (c) Make any investigation upon request of the City Council or upon its own motion concerning the administration of personnel or conditions of employment in the municipal service and report its findings to the City Council and City Administrator.
- (d) Hear appeals of any officer or employee under the Civil Service System, who is suspended, demoted or removed, and report in writing to the appointing power and City Council, its findings, conclusions, recommendations and decision thereon, and its decision shall be binding on the appointing or removing power.
- (e) Exercise such functions with respect to personnel or the Civil Service System, not inconsistent herewith, as may be prescribed by this Charter or by ordinance.

#### Section 809. Board of Park Commissioners. Powers and Duties.

There shall be a Board of Park Commissioners consisting of five (5) members. The Board of Park Commissioners shall have the power and duty to:

- (a) Act in an advisory capacity to the City Council in all matters pertaining to parks, beaches, plazas, parkways and street trees.
- (b) Consider the annual budget for parks, beaches, plazas, parkways and street tree purposes during the process of its preparation and make recommendations with respect thereto to the City Council and the City Administrator.
- (c) Assist in the planning of parks, beaches, plazas and street trees for the inhabitants of the City, promote and stimulate public interest therein, and to that end solicit to the fullest extent possible the cooperation of school authorities, Recreation Commission and other public and private agencies interested therein.
- (d) Perform such other duties not inconsistent with this Charter as may be prescribed by ordinance.

Section 810. Recreation Commission. Powers and Duties.

There shall be a Recreation Commission consisting of five (5) members. The Recreation Commission shall have the power and duty to:

- (a) Act in an advisory capacity to the City Council in all matters pertaining to recreation.
- (b) Consider the annual budget for recreation purposes during the process of its preparation and make recommendations with respect thereto to the City Council and City Administrator.
- (c) Assist in the planning of recreation programs for the inhabitants of the City, promote and stimulate public interest therein, and to that end solicit to the fullest extent possible the cooperation of school authorities, Board of Park Commissioners and other public and private agencies interested therein.
- (d) Perform such other duties as may be prescribed by ordinance not inconsistent with the provisions of the Charter.

Section 811. Board of Harbor Commissioners. Powers and Duties.

There shall be a Board of Harbor Commissioners consisting of five (5) members which shall have the power and duty to:

- (a) Recommend and act in advisory capacity to the City Council in all matters pertaining to the operation of all vessels and water craft within the Harbor of the City, the use, control, operation, promotion and regulation of said Harbor, the construction, improvement, erection, dredging, maintenance and operation of the said Harbor and all navigable waters, buildings, structures, wharves, docks, piers, warehouses, railroads, appliances, utilities and facilities forming a part of or accessory to or relating to said Harbor or to water commerce, navigation or fishery in or about said Harbor, as the same may now exist or may hereafter be extended.
- (b) Recommend to the City Council plans, rules and regulations pertaining to any of the matters listed in (a) above, or to the fixing of rates, tolls, fees, rents, charges or other payments to be made to or by the City in connection with the said Harbor or the use or operation thereof or of anything accessory thereto or connected therewith.
- (c) Consider the annual budget for the Harbor Department during the process of its preparation and make recommendations with respect thereto to the City Council and City Administrator.
- (d) Make recommendations to the City Council regarding the desirable qualifications and duties of the Harbor Manager or other head of the Harbor Department.
- (e) Make recommendations to the City Council concerning the acquisition, disposition or repair of equipment, facilities, materials and supplies relating to the Harbor Department.
- (f) Perform such other functions or duties, not inconsistent with this Charter, as may be prescribed by ordinance.

Section 812. Airport Commission.

There shall be an Airport Commission which shall be responsible for matters pertaining to management and operation of the Airport facilities of the City.

The City Council shall, by ordinance, provide for the powers and duties of the Commission, the number of members, the qualifications of members and the members' terms of office. All members shall be appointed by the City Council, but the ordinance may authorize appointment of members selected by other public entities. Notwithstanding Section 802 of this Charter, the members of the Commission need not be electors of the City, and may be non-residents.

Notwithstanding other sections of this Charter, the Council may, by ordinance, grant to the Commission the power and duty to manage and operate the Airport including (1) the selection and appointment of employees; (2) the execution of leases; (3) the construction, improvement, erection, maintenance and operation of all buildings, structures, accessories, equipment, utilities, appliances, materials and supplies related to said Airport and; (4) the acquisition of, disposition of or repair of facilities, equipment and supplies related to the Airport.

The Council may, by ordinance, authorize the Commission to promulgate rules and regulations related to operation and maintenance of the Airport, including the fixing of rates, tolls, fees, rents, charges or other payments to be made to or by the City in connection with the Airport. However, all matters required to be accomplished by ordinance shall be submitted to the City Council for approval and adoption. (Approved by election held November 5, 1974.)

Section 813. Board of Water Commissioners. Powers and Duties.

There shall be a Board of Water Commissioners consisting of five (5) members which shall have the power and duty to:

(a) Recommend and act in an advisory capacity to the City Council in all matters pertaining to the management, extension and operation of the Water Department and water facilities of the City, as the same may now or hereafter exist, including the development, production, distribution and use of water, the construction, improvement, erection, installation, maintenance and operation of all buildings, dams, reservoirs, structures, accessories, equipment, utilities, appliances and facilities relating to the said Water Department and water facilities thereof.

(b) Recommend to the City Council plans, rules and regulations pertaining to any of the matters listed in (a) above, or to the fixing of rates, tolls, fees, rents, charges or other payments to be made to or by the City in connection with said Water Department or water system or the use or operation thereof or of anything accessory thereto or connected therewith including the distribution, use and consumption of water.

(c) Consider the annual budget for the Water Department during the process of its preparation and make recommendations with respect thereto to the City Council and City Administrator.

(d) Make recommendations to the City Council regarding the desirable qualifications and duties of the Superintendent of Water Works, or other head of the Water Department.

(e) Make recommendations to the City Council concerning the acquisition, disposition or repair of equipment, facilities, equipment and supplies relating to the Water Department or water system.

(f) Perform such other functions or duties, not inconsistent with this Charter, as may be prescribed by ordinance.

Section 814. Architectural Board of Review. Powers and Duties.

There shall be an Architectural Board of Review composed of nine (9) members. At least two (2) members of such Board shall be licensed architects, and at least three (3) other members shall possess professional experience in related fields, including but not limited to, landscape architecture, building design, structural engineering or industrial design. Four (4) members shall constitute a quorum, one (1) of which shall be an architect. The Board shall have the power and duty to:

(a) Review and approve, conditionally approve or disapprove all applications for a building permit for the erection or exterior alteration of any type, nature or kind of building, structure or sign that may be specified by ordinance as requiring such action within any area, district or zone of the City, except for those applications subject to review by the Historic Landmarks Commission. Any application for a building permit, except for those applications subject to review by the Historic Landmarks Commission, for the erection or exterior alteration of any such type, nature or kind of building, structure or sign within any such area, district or zone shall be referred to said Board before issuance, together with plans, elevations and site plans therefor. Any applicant may appeal in writing to the City Council from any action or decision of the Architectural Board of Review, whereupon the City Council may approve, conditionally approve or disapprove such application and the decision of the City Council shall be final. No such building permit shall be issued except in accordance with the approval of the Architectural Board of Review, or on appeal of the City Council. The City Council shall, by ordinance consistent with this Charter, implement the provisions of this section. (Approved by election held November 2, 1993; effective November 29, 1993.)

Section 815. Board of Fire and Police Pension Commissioners. Powers and Duties.

See Section 1101 of this Charter.

Section 816. Board of Fire and Police Commissioners. Powers and Duties.

There shall be a Board of Fire and Police Commissioners composed of five (5) members. The Board of Fire and Police Commissioners shall have the following powers and duties:

(a) Act in an advisory capacity to the City Council and City Administrator in all matters relating to efficient and adequate Fire and Police protection for the City of Santa Barbara.

(b) Recommend to the City Council and City Administrator rules and regulations concerning the operation and conduct of the Fire and Police Departments.

(c) Consider with the Chiefs of the respective Fire and Police Departments an annual budget of such Departments and make recommendations with respect thereto to the City Council and City Administrator.

(d) Recommend to the City Administrator and City Council appointments to the offices of Fire Chief and Chief of Police.

(e) Exercise such other functions, powers and duties not inconsistent with this Charter as may be prescribed by ordinance.

#### Section 817. Historic Landmarks Commission. Powers and Duties.

There shall be an Historic Landmarks Commission consisting of nine (9) members. Commission members shall have demonstrated knowledge of the history and architecture of the City of Santa Barbara. Notwithstanding Section 802 of this Charter, up to four (4) members of the Commission need not be electors of the City, and may be non-residents. At least two (2) members shall be licensed architects, one (1) member shall be a professional architectural historian, and one (1) member shall be a licensed landscape architect. In addition, there shall be one or more members who may not qualify for the above categories and who shall represent the public at large.

The Historic Landmarks Commission shall have the power and duty to:

(a) Recommend to the City Council that certain structures, natural features, sites or areas having historic, architectural, archaeological, cultural or aesthetic significance be designated as a Landmark;

(b) Designate certain structures or objects having historic, architectural, archaeological, cultural or aesthetic significance as Structures of Merit;

(c) Review and approve, disapprove, or approve with conditions, plans for exterior alteration, demolition, relocation, moving, or construction of or on (1) any structures or real property within El Pueblo Viejo Landmark District, (2) any structures or real property within any designated Landmark District, (3) any additional property authorized by action of the City Council; (4) a designated Landmark. The area described in Section 22.22.100 of the Santa Barbara Municipal Code as it exists at the time of this amendment shall comprise El Pueblo Viejo Landmark District. Its boundaries may be expanded by the City Council through the adoption of appropriate ordinances. Any applicant may appeal in writing to the City Council from any action or decision of the Historic Landmarks Commission, whereupon the City Council may approve, conditionally approve or disapprove such application and the decision of the City Council shall be final. Any structure, natural feature, site or area owned or leased by any public entity shall not be subject to the provisions of this Section with the exception of those owned or leased by the City unless the City Council determines in its discretion that such review is unnecessary;

(d) Perform such other functions or duties, not inconsistent with this Charter, as may be prescribed by ordinance. (Approved by election held November 2, 1993; effective November 29, 1993.)

### **Article IX**

#### **BOARD OF EDUCATION**

##### Section 900. State Law Governs.

The manner in which, the times at which and the terms for which the members of the Board of Education shall be elected or appointed, their qualifications, compensation and removal and the number which shall constitute such Board shall be as now or hereafter prescribed by the Education Code of the State of California.

##### Section 901. Effect of Charter on District.

The adoption of this Charter shall not have the effect of creating any new school district nor shall the adoption of this Charter have any effect upon the existence or boundaries of any present school district within the City or of which the City comprises a part.

### **Article X**

#### **CIVIL SERVICE SYSTEM**

##### Section 1000. System Established.

There is hereby established a Civil Service System for the selection, employment, classification, advancement, demotion, suspension, discharge and handling of grievances of those appointive officers and employees who shall be included in Classified Service. The System shall consist of the establishment of minimum standards of employment and qualifications for the various classes of employment and procedures to be followed in advancement, demotion, suspension and discharge of employees included within the System, as the City Council shall determine to be for the best interests of the public service. The System shall comply with all provisions of this Charter, and the City Council shall implement the same by ordinance, rules and regulations consistent with the provisions of this Charter.

#### Section 1001. Unclassified and Classified Service.

The service of the City shall be divided into the Unclassified and the Classified Service.

- (a) The Unclassified Service shall include the following officers and positions:
1. All elective officers;
  2. City Administrator; Assistant City Administrator, if any; one (1) private secretary to the City Administrator; City Attorney; Assistant City Attorney, if any; one (1) private secretary to the City Attorney; City Clerk; City Treasurer; and all department heads;
  3. All members of boards and commissions;
  4. Positions in any class or grade created for a special or temporary purpose and which may exist for a period of not longer than six (6) months in any one (1) calendar year;
  5. Persons retained by contract and not as employees to render professional, scientific, technical or expert service;
  6. Persons who render part-time service without pay or who are paid on an hourly or per diem basis; and
  7. Any new classification hereafter created by the City Council unless declared to be Classified at the time of creation or thereafter.
- (b) The Classified Service shall comprise all positions not specifically included by this section in the Unclassified Service.

#### Section 1002. Appointments. Merit Principle.

Appointments and promotions in the Classified Service of the City shall be made according to merit and fitness and from eligible lists to be established in accordance with the provisions of any ordinance not inconsistent with the provisions of this Charter or by transfer, demotion or reinstatement.

#### Section 1003. Preparation of Eligible Lists.

Eligible lists shall be prepared from examinations of applicants for positions in the Classified Service, which examinations shall be practical, impartial and relate to those matters which fairly test the relative capacity of the applicants to discharge the duties of the positions to which they seek to be appointed.

#### Section 1004. Probationary Period.

All original and promotional appointments to positions in the Classified Service shall be for a probationary period of one (1) year, during which the employee may be rejected by the appointing power, without assigning reasons therefor and without a hearing. The name of the dismissed probationer may at his request be restored to the eligible list with its original percentage in the discretion of the Board of Civil Service Commissioners. Such restoration, however, shall not permit the certification to the position or department from which the probationer has been dismissed, except on the written request of the appointing power. An employee rejected during the probationary period from a position to which he has been promoted shall be reinstated to the position from which he had been promoted, unless charges are filed against him and he is dismissed as provided in the Charter.

#### Section 1005. Status of Present Personnel.

Any person holding a position or employment included by this Charter in the Classified Service who, on the effective date of this Charter:

- (a) Shall have attained regular or probationary status under the existing Civil Service System, shall retain such status in the Classified Service under this Charter.
- (b) Shall have served continuously in such position for a period of one (1) year, shall assume permanent classified status in such position without test or examination.
- (c) Shall have served in such position for less than one (1) year continuously, shall assume probationary status in such position without test or examination retroactive to the date of appointment or employment in such position.

#### Section 1006. Appointments from Classified Service.

In the event any officer or employee of the City holding a position in the Classified Service is appointed to a position in the Unclassified Service, and should thereafter be removed or resign therefrom, he shall revert to his former position in the Classified Service without loss of any rights or privileges and upon the same terms and conditions as if he had remained in said position continuously, unless charges are filed against him and he is demoted or dismissed as provided in this Charter.

#### Section 1007. Suspension, Demotion and Dismissal.

Every person holding an office or position in the Classified Service who shall have completed the probationary period therein shall be entitled to retain his office or position during good behavior so long as it exists under the same or a different title, subject, however, to suspension, demotion or dismissal as in this section provided. Any such person may be suspended, demoted or dismissed by the appointing power, subject to the provisions of this Charter, for incompetence, habitual intemperance, immoral conduct, insubordination, repeated discourteous treatment of the public or fellow employees, dishonesty, conviction of a felony, inattention to duties, engaging in prohibited political activities, acts inimical to the public service, physical or mental incompetency, or other ground of penalty or forfeiture specified by the Constitution or by this Charter.

Any such person who is suspended, demoted or dismissed shall be entitled to receive, upon his request, a hearing by the Board of Civil Service Commissioners to review such suspension, demotion or dismissal. Such request for a hearing shall be filed in the Office of the City Clerk for delivery to the said Board. A public hearing shall be called and held on the matter by said Board within twenty (20) days and written notice of the time and place thereof shall be given to the employee in person or by mail at least ten (10) days before the hearing. Such employee shall be given the opportunity at such hearing to be heard in his defense in person or by counsel. Hearings may be conducted informally and the legal rules of evidence need not apply.

The Board shall make written findings which shall state as to each charge whether or not such charge is sustained. Such Board shall also set forth in writing its conclusions and recommendations based upon such findings and within ten (10) days after concluding the hearing, it shall certify its findings, conclusions, recommendations and its decision based thereon to the board or officer from whose action the appeal was taken, and to the City Administrator and City Council. The same shall also be available to the public.

The decision of the Board shall affirm, modify or rescind the action taken as in its judgment shall seem warranted by the evidence and by the applicable provisions of this Charter and any ordinance, rules or regulations adopted hereunder; and such decision shall be final and conclusive.

Where an appeal is taken to the Board from an order of dismissal, the vacancy in the position shall be considered a temporary vacancy pending final action by the Board and may be filled only by a temporary appointment.

Notwithstanding any other provision of this Charter, a reduction in pay shall not constitute a demotion if it results from a position reallocation or reclassification as defined by ordinance or resolution or is a part of a plan to reduce salaries and wages in connection with a general economy or curtailment program.

Nothing in this section shall restrict the right to make bonafide reductions in force or to enact legislation requiring retirement for disability or age.

As used in this Charter, the words dismiss, remove and discharge, in all their forms and tenses, shall be synonymous and interchangeable. (Approved by election held November 2, 1982.)

#### Section 1008. Abolition of Position.

Whenever in the judgment of the City Council it becomes necessary in the interest of economy or because the necessity for the position involved no longer exists, the City Council may, subject to the provisions of this Charter, abolish any position or employment to the Classified Service and thereby reduce the personnel by laying off employees without the filing of written charges and without the right of appeal. In reducing said personnel and laying off any employee through the abolition of position, the City Council shall observe the seniority rule. The name of each employee so laid off shall be placed at the top of the appropriate eligible list. Any later reinstatement to such position shall be in order of seniority, and no new applicant for any such position shall be employed for a period of two (2) years thereafter if there remains on the eligible list the name of any employee so laid off who is willing to accept reinstatement.

#### Section 1009. Solicitation of Contributions.

No officer under the government of the City and no candidate for any City office shall directly or indirectly, solicit or receive, or be in any manner concerned in soliciting or receiving any assessment, subscription or contribution, whether voluntary or involuntary, for any City political purpose whatsoever, from anyone on the employment lists or holding any position under the provisions of this Article.

#### Section 1010. Implementation by Ordinance.

The City Council may, by ordinance not inconsistent with the provisions of this Charter, establish, and from time to time amend, adequate provisions for the functionings of the Civil Service System.

## **Article XI**

### **RETIREMENT AND PENSIONS**

#### **Section 1100. State Retirement System.**

Authority and power are hereby vested in the City, its City Council and its several officers, agents and employees to do and perform any act, and to exercise any authority granted, permitted or required under the provisions of the State Employees' Retirement Act, as it now exists or hereafter may be amended, to enable the City to continue as a contracting City under the State Employees' Retirement System. All eligible "local safety members" and all eligible appointive, full-time City employees, except those who are members of the pension System mentioned in Section 1101 of this Charter, shall be members of the State Employees' Retirement System unless and until the contract is terminated as hereinafter provided. The City Council shall provide for the voluntary transfer of members of said pension System mentioned in Section 1101 to the State Employees' Retirement System and shall prescribe the methods, terms, conditions, qualifications and requirements for such transfer consistent with the provisions of this Charter and with any present or future contract with the Board of Administration of the State Employees' Retirement System.

The City Council may terminate any contract with the Board of Administration of the State Employees' Retirement System only under authority granted by ordinance adopted by a majority vote of the electors of the City voting on such proposition at an election at which such proposal is presented.

#### **Section 1101. Continuance of Present Pension System.**

Nothing contained in this Article shall be deemed or construed to impair or detract from, in any manner whatsoever, the continued and full enjoyment of all vested rights, privileges and benefits and the continuance of all provisions of the pension System provided for in Article XV-A and other provisions of the immediately preceding Charter of the City as amended to the effective date of this Charter, as to all present and existing members and beneficiaries of said System as of the effective date of this Charter; provided, however, that no new or additional members shall thereafter be added to or included in said pension System.

Wherever in said pension System, reference is made to the "Board of Police and Fire Commissioners", the same shall be deemed to refer to the appointing power under this Charter. The Board of Fire and Police Pension Commissioners, established by said Charter as so amended shall continue to exist, function and operate and new members be appointed thereto until, and only until, such time as there shall no longer be any member or beneficiary of said System in existence, whereupon said pension System and said Board of Fire and Police Pension Commissioners shall terminate. In lieu of appointment of an active member of the Police Department and Fire Department as provided in Article XV-A, the Mayor, with consent of the City Council, may appoint a retired member of the Police Department and Fire Department.

Notwithstanding the provisions of said preceding Charter, the Board of Fire and Police Pension Commissioners may invest any funds placed under its jurisdiction for investment pursuant to said Article XV-A of said preceding Charter in any securities or assets in which the funds of the State Employees' Retirement System may lawfully be invested at the time of such investment, subject, however, to all conditions, limitations and requirements imposed by law upon the investment of such funds of the State Employees' Retirement System at such time. (Approved by election held June 6, 1978.)

Notwithstanding the provisions of said preceding Charter, the amount of the Service Retirement benefit (Section 3(a) and 3(b) of Article XV-A) shall be increased by \$100 per month on July 1, 1980. The City Council may, by ordinance, annually increase the amount of the Service Retirement if the City Council, based upon competent actuarial advice, determines that there are sufficient reserve funds in the Service Retirement Fund to discharge the liabilities of such increase. (Approved by election held June 3, 1980.)

Notwithstanding the provisions of said preceding Charter, the benefit paid each member retired because of disability, pursuant to Sections 5 and 6 of Article XV-A, shall be increased by \$100 per month on July 1, 1980. The City Council may, by ordinance, annually increase the amount of the benefit if the City Council determines funds are available and it is in the best interest of the City to do so. (Approved by election held June 3, 1980.)



## **Article XII**

### **FISCAL ADMINISTRATION**

#### **Section 1200. Fiscal Year.**

The fiscal year of the City government shall begin on the first day of July of each year and end on the thirtieth (30th) day of June of the following year.

#### **Section 1201. Annual Budget, Preparation by the City Administrator.**

At such date as the City Administrator shall determine, each board or commission and each department head shall furnish to the City Administrator, personally, or through the Director of Finance, estimates of revenue and expenditures for his department or for such board or commission for the ensuing fiscal year, detailed in such manner as may be prescribed by the City Administrator. In preparing the proposed budget, the City Administrator shall review the estimates, hold conferences thereon with the respective department heads, boards or commissions as necessary, and may revise the estimates as he may deem advisable.

#### **Section 1202. Budget. Submission to City Council.**

At least sixty (60) days prior to the beginning of each fiscal year, the City Administrator shall submit to the City Council the proposed budget as prepared by him. After reviewing same and making such revisions as it may deem advisable, the City Council shall determine the time for the holding of a public hearing thereon and shall cause to be published a notice thereof not less than ten (10) days prior to said hearing, by at least one (1) insertion in the official newspaper. Copies of the proposed budget shall be available for inspection by the public in the Office of the City Clerk at least ten (10) days prior to said hearing. (Approved by election held June 6, 1978.)

#### **Section 1203. Budget. Public Hearing.**

At the time so advertised or at any time to which such public hearing shall from time to time be adjourned, the City Council shall hold a public hearing on the proposed budget, at which interested persons desiring to be heard shall be given such opportunity.

#### **Section 1204. Budget. Revision and Adoption.**

At the conclusion of the public hearing the City Council shall further consider the proposed budget and make any revisions thereof that it may deem advisable and on or before June 30 by resolution it shall adopt the budget with revisions, if any, by the affirmative votes of at least a majority of the total members of the Council. Upon final adoption, the budget shall be in effect for the ensuing fiscal year. Copies thereof, certified by the City Clerk, shall be filed with the City Administrator, Director of Finance, City Treasurer and the person retained by the City Council to perform the post audit function and a further copy shall be placed, and shall remain on file in the Office of the City Clerk, where it shall be available for public inspection. The budget so certified shall be reproduced and copies made available for the use of the public and of departments, offices and agencies of the City.

#### **Section 1205. Budgets, Appropriations.**

From the effective date of the budget, the several amounts stated therein as proposed expenditures shall be and become appropriated to the several departments, offices and agencies for the respective objects and purposes therein named, provided, however, that the Director of Finance with the approval of the City Administrator may authorize the transfer of funds from one (1) object or purpose to another within the same department, office or agency. All appropriations shall lapse at the end of the fiscal year to the extent that they shall not have been expended or lawfully encumbered.

At any public meeting after the adoption of the budget, the City Council may amend or supplement the budget by motion adopted by the affirmative votes of at least a majority of the total members of the City Council.

#### **Section 1206. Centralized Purchasing.**

Under the control and direction of the City Administrator there shall be established a centralized purchasing system for all City departments and agencies, except as otherwise provided in this Charter. The City Administrator shall recommend and the City Council shall consider and adopt by ordinance, rules and regulations governing the contracting for, purchasing, storing and distribution of all supplies, materials and equipment required by any office, department or agency of the City government.

#### Section 1209. Bonded Debt Limit.

The City shall not incur an indebtedness evidenced by general obligation bonds which shall in the aggregate exceed the sum of ten percent (10%) of the total assessed valuation, for purposes of City taxation, of all the real and personal property within the City.

No bonded indebtedness which shall constitute a general obligation of the City may be created unless authorized by the affirmative votes of two-thirds (2/3) of the electors voting on such proposition at any election at which the question is submitted to the electors and unless in full compliance with the provisions of the State Constitution and of this Charter.

#### Section 1210. Revenue Bonds.

Bonds which are payable only and solely out of such revenues, other than taxes, as may be specified in such bonds and produced or contributed to by the improvement financed by said bonds may be issued when the City Council by ordinance shall have established a procedure for the issuance of such bonds. Such bonds, payable only out of such revenues, shall not constitute an indebtedness or general obligation of the City within the meaning of Section 1209. No such bonds payable out of revenues shall be issued without the assent of a majority of the voters voting upon the proposition for issuing the same at an election at which such proposition shall have been duly submitted to the qualified electors of the City.

It shall be competent for the City to make contracts and covenants for the benefit of the holders of any such bonds payable only from revenues and which shall not constitute a general obligation of the City for the establishment of a fund or funds, for the maintaining of adequate rates or charges, for restrictions upon further indebtedness payable out of the same fund or revenues, for restrictions upon transfer out of such fund and other appropriate covenants. Money placed in any such special fund for the payment of principal and/or interest on any issue of such bonds or to assure the application thereof to a specific purpose shall not be expended for any other purpose whatever except for the purpose for which such special fund was established and shall be deemed segregated from all other funds of the City and reserved exclusively for the purpose for which such special fund was established until the purpose of its establishment shall have been fully accomplished.

#### Section 1211. Salaries. Annual Adjustment.

In order to provide understandable methods of salary setting which will result in compensation reasonable to employees and taxpayers alike, the salary administration policy and procedures for the City shall be implemented in a manner consistent with modern public personnel administration.

(a) The City Administrator shall annually review the salary schedules, rates of compensation, and related benefits of all the officers, management employees, general employees and Police and Fire employees of the City, as such employee groups may be defined by ordinance, in accordance with the wage compensation policy hereinafter set forth.

(b) The compensation of Police and Fire employees of the City shall be set forth by ordinance or resolution. Said compensation may be adjusted, annually or otherwise, to reflect the results, if any, of any employer/employee negotiations which may be required by law. Notwithstanding any provisions of this Charter, the economic ability of the City to pay compensation in any form shall be paramount. (Approved by election held March 8, 1977.)

(c) The compensation of general employees of the City shall be set forth by ordinance or resolution. Said compensation may be adjusted, annually or otherwise, to reflect the results, if any, of any employer/employee negotiations which may be required by law. Notwithstanding any provisions of this Charter, the economic ability of the City to pay compensation in any form shall be paramount. (Approved by election held June 8, 1976.)

(d) Compensation for management employees of the City shall be in accordance with the Management Compensation Plan specified by ordinance. The salaries of management employees shall be annually reviewed and adjusted on the basis of comparability with other public jurisdictions having departmental divisions of similar size and positions. In recommending salary adjustments to the Council, the City Administrator shall take into account cost-of-living indices, recruitment difficulties, staff organization and responsibility.

(e) The City Council shall annually by ordinance or resolution effective on the first day of July of each year adjust the salary schedules and rates of compensation of all City officers and employees, other than City Councilmen, in accordance with the provisions of this section.

(f) This section shall become operative and effective on January 1, 1974. (Approved by election held April 17, 1973.)

Notwithstanding the foregoing provisions of this section: (1) when the functions, duties, demands or responsibilities of a position or classification are substantially changed, (2) when a sufficient number of applicants for a class or position is not available, (3) when the ability, capabilities, background or experience of the occupant of an office or position are substantially different from those of the previous occupant, or (4) when a new position is created, the City Council may change and establish the salary for any such office, position or classification so as to be fair and just and compatible with the facts, circumstances and considerations as above set forth. Salary schedules or rates shall not be changed except in accordance with this section.

#### Section 1212. Contingency Fund.

The City Council may maintain a revolving fund, to be known as the "Contingency Fund", for the purpose of placing the payment of running expenses of the City on a cash basis. A balance may be built up in this fund from any available sources, other than funds which are by law or this Charter restricted to a particular use, in an amount which the City Council deems sufficient with which to meet all lawful demands against the City for the first five (5) months, or other necessary period, of the succeeding fiscal year prior to the receipt of sufficient revenues. Transfers may be made by the City Council from such fund to any other fund or funds of such sum or sums as may be required for the purpose of placing such funds, as nearly as possible, on a cash basis. (Approved by election held November 2, 1982.)

#### Section 1213. Capital Outlays Fund.

A fund for capital outlays generally is hereby created, to be known as the "Capital Outlays Fund" and to be a continuation of any existing Capital Outlays Fund. The City Council may create by ordinance a special fund or funds for a special capital outlay purpose. It may not, in making such levy, exceed the maximum tax rate provided for in this Charter, unless authorized by the affirmative votes of a majority of the electors voting on the proposition at any election at which such question is submitted. The City Council may transfer to any such fund any unencumbered surplus funds remaining on hand in the City at any time.

Once created, such fund shall remain inviolate for the purpose for which it was created; if for capital outlays generally, then for any such purposes, and if for a special capital outlay, then for such purpose only, unless the use of such fund for some other capital outlay purpose is authorized by the affirmative votes of a majority of the electors voting on such proposition at a general or special election at which such proposition is submitted.

If the purpose for which any special capital outlay fund has been created has been accomplished, the City Council may transfer any unexpended and unencumbered surplus remaining in such fund to the fund for capital outlays generally, established by this Charter. (Approved by election held November 2, 1982.)

#### Section 1214. Treasurer's Departmental Trust Fund.

The City Council may prescribe by ordinance for the setting up of a Treasurer's Departmental Trust Fund into which the collections of or deposits with the Police Department, License Collector, Building Official and other officers and departments authorized to make collections or receive deposits may be deposited at frequent intervals each month, with advice of each deposit being furnished to the City Treasurer and Director of Finance. The City Treasurer shall make withdrawals from such a fund only on order signed by the Director of Finance and for the following purposes:

- (a) Making a refund of refundable deposits when such refund is legally due from the City.
- (b) Revolving fund advances authorized by the City Council.
- (c) Correction of clerical or ministerial errors in the receipt of payments to the City.
- (d) Making settlements with City funds at the end of each calendar month for collections or deposits accumulated during the month.

#### Section 1215. Other Funds.

The City Council may establish by ordinance such other funds, not inconsistent with the provisions of this Charter, as it may consider appropriate or desirable.

#### Section 1216. Claims and Demands. Presentation and Payment.

Procedures prescribed by the State Legislature governing the presentation, consideration and enforcement of claims against chartered cities or against officers, agents and employees thereof shall apply to the presentation, consideration and enforcement of claims against the City.

In the absence of applicable procedures prescribed by the State Legislature, and to the extent that the same are not inconsistent therewith, the following provisions of this section shall govern the presentation, processing and payment of all claims and demands against the City.

All claims for damages against the City must be presented in writing to the City Clerk within one hundred (100) days after the occurrence, event or transaction from which the damages allegedly arose, and shall set forth in detail the name and address of the claimant, the time, date, place and circumstances of the occurrence and the extent of the injuries or damages sustained. All such claims shall be approved or rejected in writing by order of the City Council and the date thereof given.

All other demands against the City must be in writing and may be in the form of a bill, invoice, payroll or formal demand. Each such demand shall be presented to the Director of Finance within one hundred (100) days after the last item of the account or claim accrued. The Director of Finance shall examine the same. If the amount thereof is legally due and there remains on his books an unexhausted balance of an appropriation against which the same may be charged, he shall approve such demand and draw his warrant on the City Treasurer therefor, payable out of the proper fund. Otherwise he shall reject it. Objections of the Director of Finance may be overruled by the City Council and the warrant ordered drawn. The Director of Finance shall transmit such demand, with his approval or rejection thereof endorsed thereon and warrant, if any, to the City Administrator. If a demand is for an item included within an approved budget appropriation, it shall require the approval of the City Administrator before payment; otherwise it shall require the approval of the City Council, following the adoption by it of an amendment to the budget authorizing such payment. Any person dissatisfied with the refusal of the City Administrator to approve any demand, in whole or in part, may present the same to the City Council which, after examining into the matter, shall approve or reject the demand in whole or in part.

#### Section 1217. Actions against City.

No suit shall be brought for money or damages against the City or any board, commission or officer thereof on any cause of action for which this Charter or the general law requires a claim to be presented, until a claim or demand for the same has been presented as in this Charter provided and such claim and demand has been rejected in whole or in part. If rejected in part suit may be brought to recover the whole. Failure to complete action approving or rejecting any claim or demand within forty-five (45) days from the day the same is presented shall be deemed a rejection thereof.

#### Section 1218. Registering Warrants.

Warrants on the City Treasurer which are not paid for lack of funds shall be registered. All registered warrants shall be paid in the order of their registration when funds therefor are available and shall bear interest from the date of registration at such rate as shall be fixed by the City Council by resolution.

#### Section 1219. Independent Audit.

The City Council shall employ at the beginning of each fiscal year, an independent certified public accountant who shall, at such time or times as may be specified by the City Council, at least annually, and at such other times as he shall determine, examine the books, records, inventories and reports of all officers and employees who receive, control, handle or disburse public funds and of all such other officers, employees or departments as the City Council may direct. As soon as practicable after the end of the fiscal year, a final audit and report shall be submitted by such accountant to the City Council, one (1) copy thereof to be distributed to each member, one (1) to the City Administrator, Director of Finance, Treasurer and City Attorney, respectively, and sufficient additional copies of the audit shall be placed on file in the Office of the City Clerk where they shall be available for inspection by the general public, and a copy of the financial statement as of the close of the fiscal year shall be published in the official newspaper.

### **Article XIII**

### **ELECTIONS**

#### Section 1300. General Municipal Elections.

General Municipal Elections for the election of officers and for such other purposes as the City Council may prescribe shall be held in the City on the first Tuesday after the first Monday in November in each odd numbered year. The first such General Municipal Election shall be held on the first Tuesday after the first Monday in November 1981. (Approved by election held March 6, 1979.)

#### Section 1301. Special Municipal Elections.

All other Municipal Elections that may be held by authority of this Charter, or of any law, shall be known as Special Municipal Elections.

#### Section 1302. Procedure for Holding Elections.

All elections shall be held in accordance with the provisions of the Elections Code of the State of California, as the same now exists or hereafter may be amended, for the holding of Municipal Elections so far as the same are not in conflict with this Charter. The City Council may by ordinance supplement the provisions of said Elections Code insofar as the same are not in conflict therewith. (Approved by election held April 15, 1969.)

#### Section 1303. Initiative, Referendum and Recall.

There are hereby reserved to the electors of the City the powers of the initiative and referendum and of the recall of municipal elective officers. The provisions of the Elections Code of the State of California, as the same now exist or hereafter may be amended, governing the initiative and referendum and the recall of municipal officers, shall apply to the use thereof in the City so far as such provisions of the Elections Code are not in conflict with the provisions of this Charter.

#### Section 1304. Nominations of Candidates.

Each candidate for elective City office shall be proposed by the filing of a nomination paper signed by not less than one hundred (100) nor more than two hundred (200) registered voters. Only one (1) candidate may be named in any one (1) nomination paper. No voter may sign more than one (1) nomination paper for the same office, and in the event he does so his signature shall count only on the first nomination paper filed which contains his signature. Nomination papers subsequently filed and containing his signature shall be considered as though his signature does not appear thereon. Any person registered to vote may circulate a nomination paper. (Approved by election held June 4, 1974.)

#### Section 1305. Ballot. Order of Candidates' Names.

The names of all candidates for elective City office, including incumbents and all other candidates, shall be listed in random order on the ballot in the manner determined by the City Council by ordinance. (Approved by election held June 4, 1974.)

#### Section 1306. Elections to be Conducted by Mail Ballot.

The City Council may, by resolution, authorize the conduct of an election by mail. The procedure to be followed will be in accordance with provisions of the Elections Code of the State of California. (Approved by election held November 2, 1982.)

### **Article XIV**

### **FRANCHISES**

#### Section 1400. Granting of Franchises.

Any person, firm or corporation furnishing the City or its inhabitants with transportation, communication, terminal facilities, wharves, water, light, heat, electricity, gas, power, refrigeration, storage or any other public utility or service, or using the public streets, ways, alleys or places for the operation of plants, works or equipment for the furnishing thereof, or traversing any portion of the City for the transmitting or conveying of any such service elsewhere, may be required by ordinance to have a valid and existing franchise therefor. The City Council is empowered to grant such franchise to any person, firm or corporation, whether operating under an existing franchise or not, and to prescribe the terms and conditions of any such grant. It may also provide, by procedural ordinance, the method of procedure and additional terms and conditions of such grants, or the making thereof, all subject to the provisions of this Charter.

Nothing in this section, or elsewhere in this Article, shall apply to the City, or to any department thereof, when furnishing any such utility or service.

#### Section 1401. Resolution of Intention. Notice and Public Hearing.

Before granting any franchise, the City Council shall pass a resolution declaring its intention to grant the same, stating the name of the proposed grantee, the character of the franchise and the terms and conditions upon which it is proposed to be granted. Such resolution shall fix and set forth the day, hour and place when and where any persons having any interest therein or any objection to the granting thereof may appear before the City Council and be heard thereon. It shall direct the City Clerk to publish said resolution at least once, within fifteen (15) days of the passage thereof, in the official newspaper. The time fixed for such hearing shall not be less than twenty (20) nor more than sixty (60) days after the passage of said resolution.

At the times set for the hearing the City Council shall proceed to hear and pass upon all protests and its decision thereon shall be final and conclusive. Thereafter it may by ordinance grant the franchise on the terms and conditions specified in the resolution of intention to grant the same, subject to the right of referendum of the people, or it may deny the same. If the City Council shall determine that changes should be made in the terms and conditions upon which the franchise is proposed to be granted, a new resolution of intention shall be adopted and like proceedings had thereon.

#### Section 1402. Terms of Franchise.

Every franchise shall state the term for which it is granted, which shall not exceed forty (40) years.

#### Section 1403. Grant to be in Lieu of All other Franchises.

Any franchise granted by the City with respect to any given utility service shall be in lieu of all other franchises, rights or privileges owned by the grantee, or by any successor of the grantee to any right under such franchise, for the rendering of such utility service within the limits of the City as they now or may hereafter exist, except any franchise derived under Section 19 of Article XI of the Constitution of California as said section existed prior to the amendment thereof adopted October 10, 1911. The acceptance of any franchise hereunder, shall operate as an abandonment of all such franchises, rights and privileges within the limits of the City as such limits shall at any time exist, in lieu of which such franchise shall be granted.

Any franchise granted hereunder shall not become effective until written acceptance thereof shall have been filed by the grantee thereof with the City Clerk. Such acceptance shall be filed within ten (10) days after the adoption of the ordinance granting the franchise, or any extension thereof granted by the City Council, and when so filed, such acceptance shall constitute a continuing agreement of such grantee that if and when the City shall thereafter annex, or consolidate with, additional territory any and all franchises, rights and privileges owned by the grantee therein, except a franchise derived under said constitutional provisions, shall likewise be deemed to be abandoned within the limits of such territory. No grant of any franchise may be transferred or assigned by the grantee except by consent in writing of the City Council and unless the transferee or assignees thereof shall covenant and agree to perform and be bound by each and all of the terms and conditions imposed in the grant or by procedural ordinance and by this Charter.

#### Section 1404. Eminent Domain.

No franchise grant shall in any way, or to any extent, impair or affect the right of the City to acquire the property of the grantee thereof either by purchase or through the exercise of the right of eminent domain, and nothing herein contained shall be construed to contract away or to modify or to abridge, either for a term or in perpetuity, the City's right of eminent domain with respect to any public utility.

#### Section 1405. Duties of Grantees.

By its acceptance of any franchise hereunder, the grantee shall covenant and agree to perform and be bound by each and all of the terms and conditions imposed in the grant, or by procedural ordinance and shall further agree to:

(a) Comply with all lawful ordinances, rules and regulations theretofore or thereafter adopted by the City Council in the exercise of its Police power governing the construction, maintenance and operation of its plants, works or equipment.

(b) Pay to the City on demand the cost of all repairs to public property made necessary by any of the operations of the grantee under such franchise.

(c) Indemnify and hold harmless the City and its officers and employees from any and all liability for damages proximately resulting from any operations under such franchise and provide such insurance and/or bond as the City Council may require.

(d) Remove and relocate without expense to the City any facilities installed, used and maintained under the franchise if and when made necessary by any lawful change of grade, alignment or width of any public street, way, alley or place, including the construction of any subway or elevated transit facilities, or by the construction or improvement of any public property or facility, or if the public health, comfort, welfare, convenience or safety so demands.

(e) Pay to the City during the life of the franchise a percentage, to be specified in the grant, of the gross annual receipts of the grantee within the limits of the City, or such other compensation as the City Council may prescribe in the grant.

#### Section 1406. Exercising Rights without Franchise.

The exercise by any person, firm or corporation of any privilege for which a franchise is required, without possessing a valid and existing franchise therefor, shall be a misdemeanor and shall be punishable in the same manner as violations of this Charter are punishable and each day that such condition continues to exist shall constitute a separate violation.

#### Section 1407. Franchise Amendment.

No franchise amendment shall be effective unless approved by five (5) affirmative votes of the City Council. (Approved by election held June 6, 1978.)

### Article XV

#### MISCELLANEOUS

#### Section 1500. Production of Oil, Gas, etc.

It is hereby declared to be the policy of the City that oil drilling, exploration or prospecting for oil, gas or other hydrocarbon substances and operations incidental thereto within the Municipal limits, are inimical to the basic residential and historical character of the City, and constitute a nuisance. It shall be unlawful for any person, firm or corporation, whether as principal, agent, employee or otherwise, to explore for, prospect for, or drill for, or to permit or to commence the exploration, prospecting or drilling for oil, gas or other hydrocarbon substances within the corporate limits of the City. Any such activity shall be deemed to constitute a nuisance and shall also constitute a violation of this Charter.

#### Section 1501. Definitions.

Unless the provision or the context otherwise requires, as used in this Charter:

- (a) "Shall" is mandatory, and "may" is permissive.
- (b) "City" is the City of Santa Barbara and "department", "board", "commission", "agency", "officer" or "employee" is a department, board, commission, agency, officer or employee, as the case may be, of the City of Santa Barbara.
- (c) "County" is the County of Santa Barbara.
- (d) "State" is the State of California.
- (e) The masculine includes the feminine and the feminine includes the masculine.
- (f) The singular includes the plural and the plural the singular.
- (g) "Person" includes firm and corporation.

#### Section 1502. Violations.

The violation of any provision of this Charter shall be a misdemeanor and shall be punishable upon conviction by a fine of not exceeding five hundred dollars (\$500.00) or by imprisonment for a term of not exceeding six (6) months or by both such fine and imprisonment; and each day that any such violation continues shall constitute a separate violation.

#### Section 1503. Validity.

If any provision of this Charter or the application thereof to any person or circumstance is held invalid, the remainder of the Charter, and the application of such provision to other persons or circumstances, shall not be affected thereby.

#### Section 1504. Annexation, Residence Requirement.

In the case where property is annexed to the City, all residence requirements for election or appointment to an office in the City government elsewhere contained in this Charter shall be deemed met if the person elected or appointed has resided in the area annexed, or in the area annexed and in the City, for the required period or residence prior to his election or appointment.

#### Section 1505. Annexation, Elector Requirements.

In the case where property is annexed to the City, any requirement elsewhere contained in this Charter that a person be a qualified elector of the City for a period of time prior to his election or appointment to an office in the City government shall be deemed met if the person was a qualified elector of the area annexed, or of the area annexed and of the City, for the required period of time prior to his election or appointment.

#### Section 1506. Building Heights. Limitations.

It is hereby declared the policy of the City that high buildings are inimical to the basic residential and historical character of the City. Building heights are limited to 30 feet in areas zoned for single-family and two-family residences; are limited to 45 feet in areas zoned for residences for three (3) or more families, for hotel, motel and office use; are limited to 60 feet in areas zoned for industrial, manufacturing and other commercial uses; and 30 feet for all other zones. The Council may, by ordinance, set limits of heights less than these maximums. The Council may, by ordinance, set up reasonable methods of measuring the heights set forth in this section. (Approved by election held November 7, 1972.)

#### Section 1507. General Plan and Zoning Ordinance Amendments Limitations.

It is hereby declared to be the policy of the City that its land development shall not exceed its public services and physical and natural resources. These include, but are not limited to, water, air quality, wastewater treatment capacity, and traffic and transportation capacity. All land use policies shall provide for a level and balance of residential and commercial development which will effectively utilize, but will not exhaust, the City's resources in the foreseeable future. In making land use decisions, the City shall be guided by the policies set forth in this section. In furtherance of these policies, no amendments to the City's General Plan and Zoning Ordinance shall be effective unless approved by five (5) affirmative votes of the City Council. Upon such approval, General Plan and Zoning Ordinance amendments shall be conclusively presumed to comply with the policies set forth herein. (Approved by election held November 2, 1982.)

#### Section 1508. Nonresidential Growth Limitations.

In furtherance of the policy stated in Section 1507, and to assure that nonresidential development does not exceed the City's water resources, traffic capacity, and affordable housing supply, the City Council shall place the following limits on nonresidential development through adoption of General Plan amendments and subsequent adoption of ordinances and resolutions which are consistent with the General Plan amendments (collectively referred to as "growth limitations" in this section). The growth limitations shall reduce nonresidential development from the existing General Plan potential of one hundred, sixteen million (116,000,000) square feet and restrict it to no more than three million (3,000,000) square feet over the next twenty (20) years, commencing January 1, 1990. If the growth limitation ordinances and resolutions have not been adopted by January 1, 1993, no further projects shall be approved until after said ordinances and resolutions are adopted.

(a) **Limitations on New Development.** The growth limitations shall restrict nonresidential development (including pending and approved projects) over the next twenty (20) years to no more than three million (3,000,000) square feet above the October 1988 baseline condition. This allowable square footage shall be allocated as follows:

<u>Category</u>	<u>Square Footage</u>
Approved Projects	900,000
Pending Projects	700,000
Vacant Property	500,000
Small Additions	600,000
Community Priorities	300,000
<b>TOTAL:</b>	<b>3,000,000</b>

This limitation shall be implemented by zoning ordinance amendments, parcel rezoning, a project evaluation system, a floor area ratio ordinance and other appropriate means to reduce or restrict the zoning to allow a maximum of three million (3,000,000) additional square feet above the October 1988 baseline condition at full buildout. Small additions will be limited to no more than thirty thousand (30,000) square feet annually.



Notwithstanding the development restrictions established above, the City Council may approve nonresidential development projects determined by the Council to promote Economic Development. The total square footage of all Economic Development projects shall not exceed the total square footage of those "Approved" or "Pending" projects which have expired and any accrued and unused development square footage from the annual allotments in the "Small Additions" category. This paragraph shall be implemented by an ordinance which defines the term "Economic Development." Nothing herein shall be deemed to authorize the approval of nonresidential development totalling in excess of three (3) million square feet above the October 1988 baseline condition nor to extend the term of this Charter Section 1508 beyond December 31, 2009.

(b) Traffic, Water and Affordable Housing Resources. The growth limitations shall provide that a new or pending nonresidential project may be constructed only if it will not cause a significant and unmitigated adverse impact on any of the following:

1. The City's water resources.
2. Traffic within the City.
3. The supply of affordable housing in the City and South Coast area.

A finding shall be made that resources will be available and traffic improvements will be in place at the time the project is ready for occupancy.

(c) Community Priority Projects. Community Priority Projects are those which are found by the City Council as necessary to meet present or projected needs directly related to public health, safety or general welfare. Such projects shall not be subject to the provisions of Subsection (b).

(d) Interim Limitations. The City Council shall adopt, on an interim basis, ordinances and resolutions adequate to limit nonresidential development until such time as the growth limitations required by this section are adopted. No projects shall be approved between the effective date of this Charter section and the date these interim measures are effective. At such time as the growth limitations ordinances and resolutions required in (a), (b), and (c) above are in effect, this section (d) shall be deemed repealed. The interim limitations shall:

1. Prohibit nonresidential development which, if approved, would prejudice the City's ability to comply with this section.
2. Prohibit approval of a pending project if it will cause either an unavoidable and unmitigated significant adverse environmental effect, or an adverse effect on traffic in violation of adopted City policies as set forth in the Circulation Element and other applicable ordinances and resolutions. This policy does not apply in the event that a project's only significant environmental effect is a cumulative effect on air quality.
3. Prohibit the conversion of residential units to nonresidential uses within the R-4 zone and all nonresidential zones. Prohibit demolition of any residential unit in any nonresidential zone unless it will be replaced on site with an affordable unit.
4. Require that any nonresidential project on vacant land not exceed a floor area ratio of 0.25.

5. Allow Community Priority Projects to proceed, notwithstanding paragraphs 1 through 4 of this Subsection (d), provided the City Council finds that the project is needed to satisfy a present or projected need directly related to public health, safety or general welfare.

(e) Definitions. A minor addition of one thousand (1,000) square feet or less shall not be considered a project under this section. Hotel rooms replaced on a room-for-room basis shall not be considered a project under this section. A "general welfare project" is defined as a project which has a broad public benefit (for example: museums, childcare facilities, or community centers), and which is not principally operated for private profit. The remaining terms used in this section shall be defined by ordinance. (Approved by election held November 7, 1989, effective December 6, 1989; Amended by election held November 7, 1995, effective December 22, 1995.)